

### REMARKS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1, 3-24, and 29-35 are pending in this case. Claims 1, 3-14, and 16-24 are amended, Claims 29-35 are added, and Claims 2 and 25-28 are cancelled, without prejudice or disclaimer, by the present amendment. The changes to Claims 1, 3-14, and 16-24 and new Claims 29-35 are supported in the originally filed disclosure at least at Figure 26 and the associated descriptions. Thus, no new matter is added.

In the outstanding Office Action, Claims 1-28 were rejected under 35 U.S.C. §103(a) as unpatentable over Goldman (U.S. Pub. No. 2002/0112239 A1) in view of Ellis, et al. (U.S. Pub. No. 2003/0020744 A1, herein “Ellis”).

At the outset, Applicants and Applicants’ representative thank Examiner Son Huynh for the courtesy of an interview with Applicants’ representative on November 4, 2010. The discussion during that interview is reflected in the remarks presented herein.

In light of the cancellation of Claims 2 and 25-28, the rejection of those claims is moot.

Applicants respectfully traverse the rejection of Claims 1, 3-14, and 16-24 under 35 U.S.C. §103(a).

Amended Claim 1 recites, *inter alia*:

means for averaging, for each of the programs, the data indicating scheduling of recordings *based upon a sum of the number of scheduled recordings of the program divided by a number of broadcast time zones of the program*, to obtain an average scheduling count of the program; and

means for generating an EPG including a statistical data layer superimposed upon a program guide data layer as a two-dimensional grid guide format, *the statistical data layer including, respective to a programming box for each of the*

*plurality of broadcast time zones of each of the programs, an indicator of the average scheduling count of the program.* (Emphasis added.)

Goldman describes that individual viewing behavior of users (98a-98d) may be tracked and compiled at a clearinghouse (100) using a feedback channel to generate an Electronic Program Guide (EPG) displaying user viewing behavior.<sup>1</sup> To that end, Goldman describes an EPG which displays television programs ranked in decreasing order based upon viewership information (206) and viewing population information (208), for programs being presently broadcast.<sup>2</sup>

However, as discussed during the interview, Goldman does not describe any averaging based on a sum of a number of scheduled recordings of a television program divided by a number of broadcast time zones of the television program, for any of the television programs. Instead, Goldman describes generating an EPG including a ranking of the television programs based upon viewership and population information, *for a single broadcast time of the television programs*. Specifically, Goldman is silent as to either the viewership information (206) or the viewing population information (208) being determined based on any average of viewing behavior of the users (98a-98d) over a plurality of broadcast time zones. Therefore, Goldman does not teach or suggest a “means for averaging, for each of the programs, the data indicating scheduling of recordings based upon a sum of the number of scheduled recordings of the program divided by a number of broadcast time zones of the program, to obtain an average scheduling count of the program,” as recited by amended Claim 1, and Ellis fails to cure these deficiencies.

Ellis describes a program listing having a programming box including an icon (299) that indicates the listing is for a program that is to be recorded, for a single broadcast time

---

<sup>1</sup> Goldman at paragraphs [0027], [0048], and [0049], and at Figures 2 and 3.

<sup>2</sup> Goldman at paragraph [0052] and at Figure 4.

zone of the program.<sup>3</sup> Additionally, Ellis describes an indicator that a recording of a program was viewed.<sup>4</sup>

However, as discussed during the interview, Ellis does not describe any averaging based a sum of a number of scheduled recordings of a program divided by a number of broadcast time zones of the program. Instead, Ellis describes a program listing that indicates that a program is to be recorded and that a recording of a program was viewed.<sup>5</sup> Specifically, Ellis is silent as to averaging any viewing behavior over a plurality of broadcast time zones. Therefore, Ellis does not teach or suggest a “means for averaging, for each of the programs, the data indicating scheduling of recordings based upon a sum of the number of scheduled recordings of the program divided by a number of broadcast time zones of the program, to obtain an average scheduling count of the program,” as recited by amended Claim 1.

Further, as discussed during the interview, Goldman and Ellis, even in combination, do not teach or suggest generating a statistical data layer including an indicator of an average scheduling count of a program, as defined by amended Claim 1 (and discussed above), *respective to a programming box for each of the plurality of broadcast time zones of the program*. Instead, Goldman and Ellis merely describe displaying indicators *related to a single time zone of a program, in one programming box* of the program.<sup>6</sup> Therefore, Goldman and Ellis also fail to teach or suggest any “means for generating an EPG including a statistical data layer . . . including, respective to a programming box for each of the plurality of broadcast time zones of each of the programs, an indicator of the average scheduling count of the program,” as recited by amended Claim 1.

---

<sup>3</sup> See paragraph [0125] of Ellis, et al. (U.S. Pub. No. 2003/0149988, herein “Ellis ‘988”), which is incorporated by reference into Ellis.

<sup>4</sup> See column 9, line 53, to column 10, line 18, and Figures 9, 12a, and 12b of Hassel, et al. (U.S. Patent No. 7,784,081 B2), which is incorporated by reference into Ellis.

<sup>5</sup> See paragraph [0125] of Ellis ‘988 and column 9, line 53, to column 10, line 18, and Figures 9, 12a, and 12b of Hassel.

<sup>6</sup> Id.

Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 103(a) of Claim 1, and Claims 3-21, which depend therefrom, be withdrawn.


Claims 22-24, although differing in scope and/or statutory class from Claim 1, patentably define over Goldman and Ellis for reasons similar to those discussed above with regard to Claim 1. Thus, Applicants respectfully request that the rejection of Claims 22-24, under 35 U.S.C. §103(a), be withdrawn.

New Claim 29 patentably defines over Goldman and Ellis for reasons similar to those discussed above with regard to Claim 1 and is believed to be in condition for allowance. Additionally, new Claims 30-35 depend from Claim 1. Therefore, Claims 30-35 patentably define over Goldman and Ellis for at least the same reasons as Claim 1 and are believed to be in condition for allowance.

Accordingly, the outstanding rejection is traversed and the pending claims are believed to be in condition for formal allowance. An early and favorable action to that effect is, therefore, respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, L.L.P.



---

Bradley D. Lytle  
Attorney of Record  
Registration No. 40,073

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 07/09)

Jason M. Perilla  
Registration No. 65,731